

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated June 28, 2006. By this Response and Amendment, claims 1, 5, 7 and 10 have been amended. Claims 1-10 are pending in the present application of which claims 1 and 10 are independent.

Rejections under 35 U.S.C. § 112

In section 2 on page 2, the Office Action rejects claim 1 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant hereby submits the amended claim 1 which now particularly points out and distinctly claims the subject matter that Applicant regards as the invention. Applicant respectfully submits that claim 1 now comply with all applicable requirements. For at least the foregoing reasons, Applicant respectfully requests that the rejection to claim 1 in section 2 on page 2 of the Office Action be withdrawn.

Rejections under 35 U.S.C. § 103

In section 3, on pages 2-4, the Office Action rejects claims 1, 3, 5, 6 and 8-10 under 35 U.S.C. § 103 as allegedly being unpatentable over Newby (U.S. Patent No. 6,115,821) in view of Candelore (U.S. Patent No. 6,912,513) and further in view of Kasahara (US 2002/0001383). In section 3, on pages 4-5, the Office Action rejects claim 2 under 35 U.S.C. § 103 as allegedly being

unpatentable over Newby in view of Candelore, in view of Kasahara, and further in view of U.S. Patent No. 5,029,207 to Gammie (U.S. Patent No. 5,029,207). In section 3, on page 5, the Office Action rejects claim 4 under 35 U.S.C. § 103 as allegedly being unpatentable over Newby in view of Candelore, in view of Kasahara, and further in view of “Functional Model of a Conditional Access System” EBU Project Group (hereinafter noted “EBU”). In section 3, on page 5, the Office Action rejects claim 7 under 35 U.S.C. § 103 as allegedly being unpatentable over Newby in view of Candelore, in view of Kasahara, and further in view of Della Valle EP 1168137A1 (hereinafter noted “Della Valle”). Applicant respectfully traverses these rejections.

A. Rejection of claims 1, 3, 5, 6 and 8-10

The Office Action rejects claims 1, 3, 5, 6 and 8-10 under 35 U.S.C. §103 as allegedly being unpatentable over Newby in view of Candelore and further in view of Kashara. This rejection is respectfully traversed.

1. Claims 1 and 10

Claim 1 recites, *inter alia*, “wherein a descrambling means comprise hardware for executing a conditional access software program for controlling the descrambling of said data signals, said software program being transported to the descrambling means by the enabling signal” (emphasis added). Claim 10 contains similar recitations.

As correctly conceded by the Office Action, neither Newby nor Candelore discloses, teaches, or suggests transferring a conditional access software program from an enabling means to a descrambling means, as recited in both claims 1 and 10. In order to overcome this correctly

admitted deficiency in Newby and Candelore, the Office Action relies upon Kasahara. However, Kasahara fails to overcome the correctly admitted deficiency in Newby and Candelore. Specifically, though Kasahara teaches transferring a decryption program from a distribution station to a recipient station, Kasahara only teaches such transferring in the context of a generic distributed network (See paragraph [0042]), rather than in the context of a signal-receiving device within which transferring of a conditional access software program takes place from an enabling means to a descrambling means, as recited in both claims 1 and 10. Consequently, as correctly admitted with regard to Newby and Candelore, Kasahara also does not disclose, teach, or suggest the above-quoted subject matter.

Because Kasahara does not overcome the conceded deficiency of both Newby and Candelore, the combination of these three references suffers from the same deficiency. It is therefore respectfully submitted that Office Action has failed to establish a *prima facie* case of obviousness with respect to the subject matter recited in claims 1 and 10. Accordingly, reconsideration and withdrawal of the rejection of claims 1 and 10 is respectfully requested.

2. Claims 3, 5, 6, 8 and 9

Claims 3, 5, 6, 8, and 9 are dependent from the allowable claim 1. Accordingly, it is submitted that claims 3, 5, 6, 8 and 9 are patentably distinguishable over Newby in view of Candelore, and further in view of Kasahara based at least on their dependency for the reasons stated above in connection with claims 1 and 10. Accordingly, reconsideration and withdrawal of the rejection of claims 3, 5, 6, 8 and 9 are respectfully requested.

B. Rejection of claim 2

The Office Action rejects claim 2 under 35 U.S.C. §103 as being unpatentable over Newby in view of Candelore, in view of Kasahara, and further in view of Gammie. This rejection is respectfully traversed.

Claim 2 is dependent from the allowable claim 1. Therefore, it is respectfully submitted that claim 2 is allowable for the reasons stated above in connection with the rejection of claims 1 and 10. Gammie fails to overcome the deficiencies in Newby, Candelore, and Kasahara described above. Accordingly, reconsideration and withdrawal of the rejection of claim 2 under 35 U.S.C. § 103 is respectfully requested.

C. Rejection of claim 4

The Office Action rejects claim 4 under 35 U.S.C. § 103 as allegedly being unpatentable over Newby in view of Candelore, in view of Kasahara, and further in view of EBU.

Claim 4 is dependent from the allowable claim 1. Therefore, it is respectfully submitted that claim 4 is allowable for the reasons stated above in connection with the rejection of claims 1 and 10. EBU fails to overcome the deficiencies in Newby, Candelore, and Kasahara described above. Accordingly, reconsideration and withdrawal of the rejection of claim 4 under 35 U.S.C. § 103 is respectfully requested.

D. Rejection of claim 7

The Office Action rejects claim 7 under 35 U.S.C. § 103 as allegedly being unpatentable over Newby in view of Candelore, in view of Kasahara, and further in view of Della Valle.

Claim 7 is dependent from the allowable claim 1. Therefore, it is respectfully submitted that claim 7 is allowable for the reasons stated above in connection with the rejection of claims 1 and 10. Della Valle fails to overcome the deficiencies in Newby, Candelore and Kasahara described above. Accordingly, reconsideration and withdrawal of the rejection of claim 7 under 35 U.S.C. § 103 is respectfully requested.

Conclusion

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the correspondence attorney listed below in order to expeditiously resolve any outstanding issues.

In the event that the fees submitted prove to be insufficient in connection with the filing of this paper, please charge our Deposit Account Number 50-0578 and please credit any excess fees to such Deposit Account.

Respectfully submitted,
KRAMER & AMADO, P.C.


Terry W. Kramer
Registration No.: 41,541

Date: September 25, 2006

KRAMER & AMADO, P.C.
1725 Duke Street, Suite 240
Alexandria, VA 22314
Phone: 703-519-9801
Fax: 703-519-9802

DIRECT ALL CORRESPONDENCE TO:

Larry Liberchuk, Esq. - Registration No.: 40,352
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9602
Fax: (914) 332-0615